

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 1619 of 1986

with

CIVIL APPLICATION No 3055 of 1998

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GULABSINGH C JADEJA

VERSUS

CHIEF EXECUTIVE OFFICER

Appearance:

MR BD KARIA for the Petitioner

None present for the Respondents

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CORAM : MR JUSTICE S.K. KESHOTE

Date of decision: 23/07//99

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C.A.V. JUDGMENT

Heard the learned counsel for the petitioners.

2. This petition is of the year 1986. The petition was admitted on 20th March, 1986. Though more than 13 years have been passed, the respondents have not cared to file reply to the same. Not only this, the respondents even have not cared to see that somebody is present on their behalf in the Court.

3. Learned counsel for the petitioners states that the petitioner No.4 is not in service since 1991. The petitioner No.3 expired on 16th November, 1997. Civil Application No.3579/98 has been filed by the mother and daughter to bring them on record as heirs and legal representatives of the deceased-petitioner No.3. This civil application was granted on 19th June, 1998 and those two applicants were ordered to be brought on record as heirs and legal representatives of the deceased petitioner No.3. Accordingly, the cause title has also been corrected. The second wife, mother and minor son filed civil application No.3055/98 for bringing them on record as heirs and legal representatives. On this application no order has been passed so far. In this special civil application I am not deciding the rival claims of the mother, second wife, son and daughter. Heirs and legal representatives are to be brought on record to continue the proceedings and when the mother and daughter are there, it is sufficient representation for continuation of this special civil application, and as such, I do not consider it to be necessary to implead the second wife and son as heirs and legal representatives of petitioner No.3 in this special civil application. The civil application No.3055/98 is dismissed. Dismissal of the civil application may not be taken to be as if this Court has given the decision in the property and other service benefits which may fall through the petitioner No.3 on these two legal heirs. For these rights they have liberty to take appropriate legal remedy if some dispute is raised by other heirs.

4. The petitioners who are working as per their case as work-charge mistrys on consolidated salary with the Board for last more than 20 years are praying that the respondents may be directed to treat them as continuously in service w.e.f from their original appointment without any break in service and they may be declared to be entitled to pay, allowances and other benefits of service as if the petitioners were in continuous service from their original date of

appointment.

5. The factual averments made by the petitioners in the special civil application are to be taken to be correct as the same stand uncontroverted by the respondents.

6. Additional affidavit is there on the record of the special civil application of the petitioner No.1. In the additional affidavit, the petitioner No.1 stated that seven junior persons named in para-4 thereof were made regular by the respondents. In para-5 of the affidavit, the petitioner No.1 states that there are many vacancies available at various places and in different cadres in the Board. In para-6 thereof, the petitioner No.1 made a statement that he is being paid the pay in the pay scale of regular employee but from this pay, salary of two days is deducted by the respondents. Reference has been made to the decision of this Court in special civil application No.116/84 filed by the Board decided on 7-2-1997. This writ petition has arisen from the decision of the Labour Court where the award has been passed that the workmen who have worked for 240 days or more should be made permanent. That award has been confirmed by this Court. The averments made in the additional affidavit of the petitioner No.1, copy of which has been given to the respondents on 19th June, 1998 have also not been controverted. So those are to be taken to be correct.

7. In the facts of this case, I consider it to be appropriate to give direction to the Chief Executive Officer of the Gujarat Maritime Board, Ahmedabad to decide the claim of the petitioners in the light of the facts aforesaid for regularising their services and to give them all the benefits which the regular employees are getting as well as the benefit of Provident Fund and Group Insurance etc. within a period of one month from the date of receipt of writ of this order. The writ petition and the affidavit filed by the petitioner No.1 be considered to be the representation of the petitioners. In case the petitioners are found entitled for all these benefits then consequential benefits flowing therefrom should be given to them within a period of two months next. The petitioner No.4 is not in service from 1991. So his benefits should be restricted upto 1991. So far as the petitioner No.3 is concerned, the benefits are to be given to the heirs and legal representatives who have produced succession certificate for the same. In case where the claim of the petitioners are not acceptable then a reasoned order

may be passed and copy of the same may be sent to the petitioners by registered post A.D.. Liberty is granted to the petitioners for revival of this special civil application in case of difficulty. Rule is made absolute in the aforesaid terms with no order as to costs.

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